

# Exhibit A



# Cal-Maine Closing Statement: Damages Phase









## Instruction #6

Antitrust damages are **compensatory only, not punitive**. The purpose of antitrust damages is to put an injured plaintiff as near as possible in the position where it would have been without the conspiracy.

The law does not permit you to award damages to punish a wrongdoer – what we sometimes refer to as punitive damages – or to deter particular conduct in the future.

You must not award to Plaintiffs any amount for attorneys' fees or the costs of maintaining this lawsuit.

# Overview of Plaintiffs' Claimed Overcharges

$$\begin{array}{rcl} \div & \text{Claimed Overcharges:} & \$25,396,542 \\ & \text{Sales to Plaintiffs:} & \$96,417,718 \\ \hline = & \text{Total Claimed as Overcharge:} & 26\% \end{array}$$

## Instruction #9

You are permitted to make just and reasonable estimates in calculating each Plaintiff's damages.

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However, **the amount of damages must have a reasonable basis in the evidence** and must be based on reasonable, non-speculative assumptions and estimates. Damages may not be based on guesswork or speculation.

**Plaintiffs must prove the reasonableness of each of the assumptions upon which the damages calculation is based.**

# ***Flaws in Plaintiffs' Overcharge Model***

Baye's Model Includes Lawful Conduct

Over-Inclusive Time Period

Doesn't Account for Kraft, Kellogg, and Nestle's Demand

## Instruction #14

**Plaintiffs are not entitled to recover for changes in price** that resulted solely from other causes arising **from the normal course of lawful business activity**.

The presence of another cause for a price increase does not mean that Plaintiffs did not suffer an antitrust injury. **But Plaintiffs are not entitled to recover for damages caused by any factor other than the conspiracy.** Plaintiffs only may recover damages for an injury caused by the antitrust violation you found.



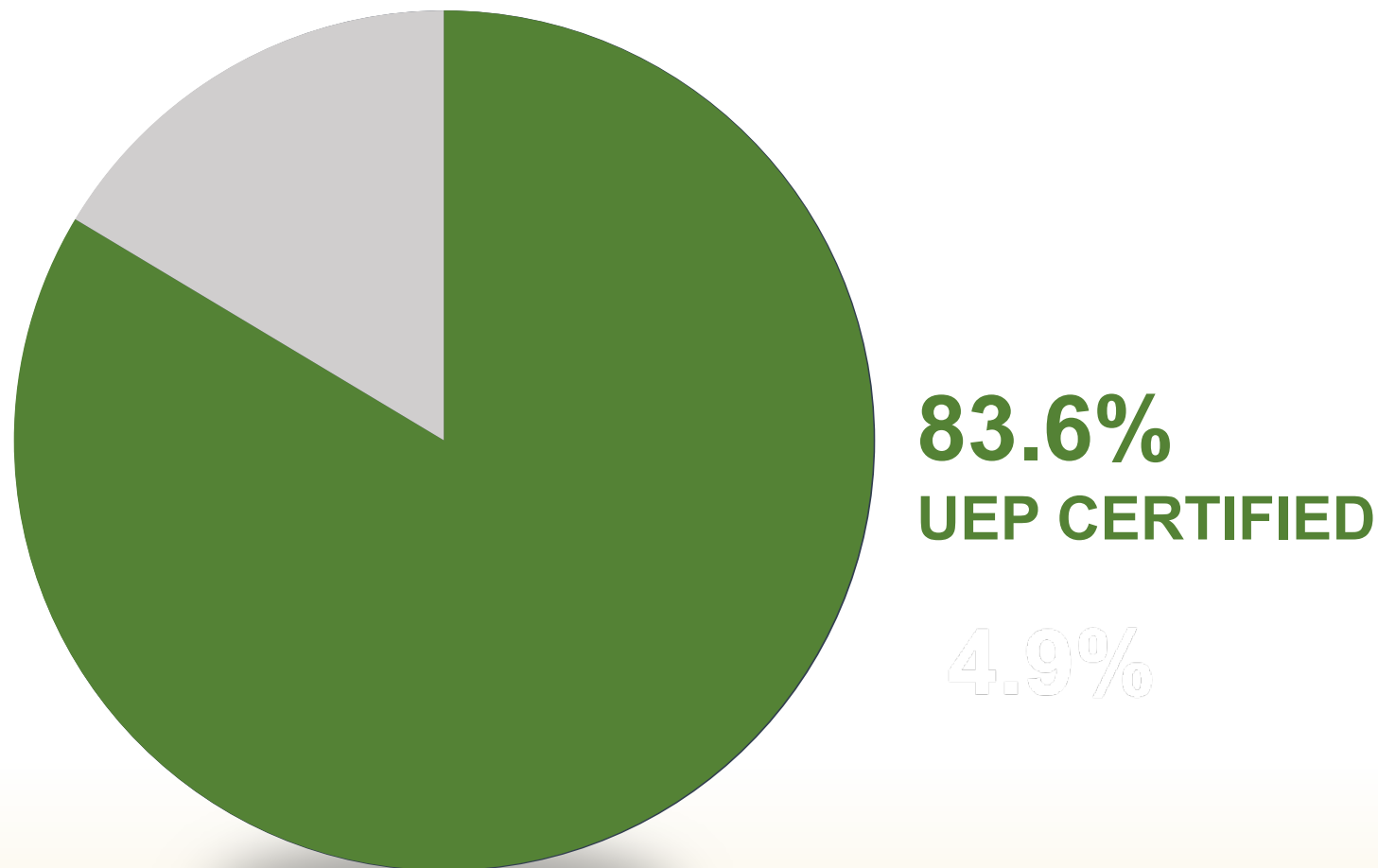
All Egg Producers' Total Flock Size and Total Egg Production

All Egg Producers in the Certified Program

➤ Producers In UEP, in Certified Program, **AND**

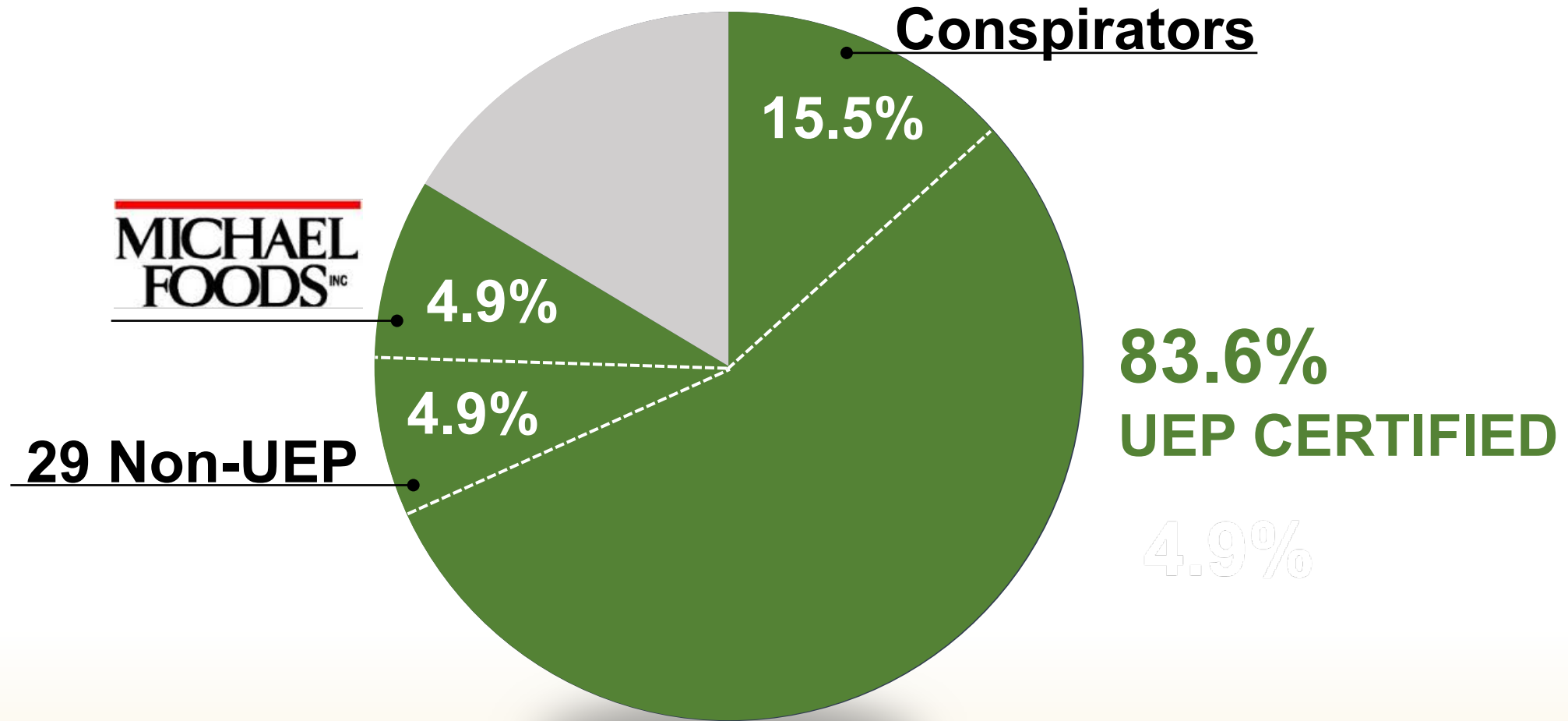
➤ Producers Not in UEP, but in Certified Program

# ***Prof. Baye's Overcharge Model Includes Lawful Conduct***

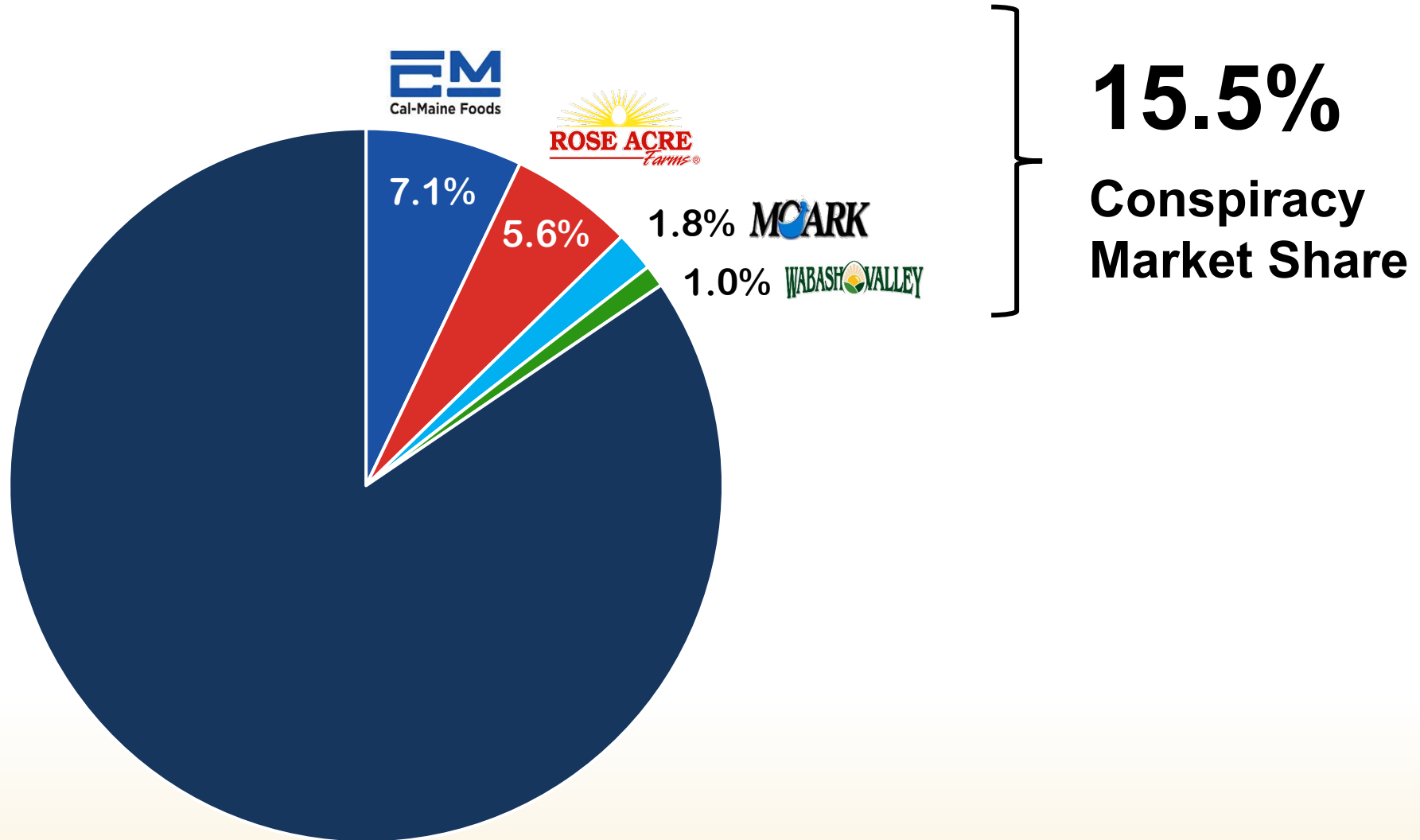




# Prof. Baye's Overcharge Model Includes Lawful Conduct



# The Overcharge Should Reflect the Jury's Verdict Form



Baye Report, Ex. 7







## Instruction #14

**You may not award damages for an injury caused by other factors, meaning factors other than the conspiracy.**

Plaintiffs bear the burden of proving damages by a preponderance of the evidence, including apportioning damages between lawful and unlawful causes. If you find that one or more Plaintiffs suffered an injury that was caused in part by lawful factors and was caused in part by the conspiracy, and **if you find a reasonable basis to apportion the damages between the lawful factors and the conspiracy, then you may award damages for the part of the injury caused by the conspiracy.**

# Reasonable to Apportion for Conspirators' Market Share

PLAINTIFF	TOTAL
	\$18,329,288
	\$1,156,262
	\$1,305,612
	\$4,605,380

**x .155**

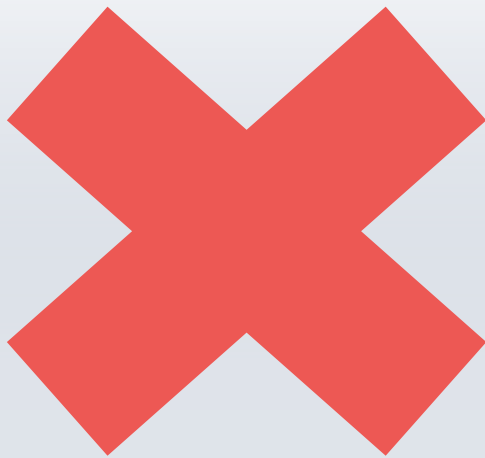


# Plaintiffs' Damages Time Period Is Inflated

Sept. '08: Plaintiffs'  
Conspiracy Ends

Oct. '04

Dec. '08



1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
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# ***Reasonable to Discount Overcharge to Align with Conspiracy***

**3 months** (Oct '08 -Dec '08)

**÷ 51 months** (Oct '04 – Dec '08)

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**= 5.9%**



# Reasonable to Discount Overcharge to Align with Conspiracy

	TOTAL
	\$18,329,288
	\$1,156,262
	\$1,305,612
	\$4,605,380

**x 0.941 =**

## Instruction #9

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However, **the amount of damages must have a reasonable basis in the evidence** and must be based on reasonable, non-speculative assumptions and estimates. Damages may not be based on guesswork or speculation.

**Plaintiffs must prove the reasonableness of each of the assumptions upon which the damages calculation is based.**



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